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ABSTRACT

This paper uses Title IX of the Education Amendments of 1972 as a case study to explore the education field and the impact on civil rights legislation dealing with gender. The U.S. record in gender-equity legislation has been mixed, no doubt due in part to the fact that female representation in U.S. legislative bodies has been among the lowest in the world. Title IX is the most extensive U.S. legislation addressing gender equity in education. With the United States entering its thrrd decade under this regulation, Title IX can provide a good study in what legislation can and cannot do to bring about social change. The paper discusses what Title IX is, its origins and context, successes and failures of Title IX, and points to consider when legislating equity. Contains 21 references. (EH)

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Working Papers Series

Legislation for Change
A Case Study of Title IX and the Women's Educational Equity Act Program

Sundra Flansburg and Katherine Hanson

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Legislation for Change
A Case Study of Title IX and the Women's Educational Equity Act Program

Sundra Flansburg and Katherine Hanson

Education Development Center
Newton, MA

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Legislation for Change:
A Case Study of Title IX and the Women's Educational Equity Act Program

In the United States, civil rights legislation has played a special role in efforts to bring about social change. As one educator pointed out, "Political pressures and laws and regulations have been, and continue to be, a potent force in removing barriers" in both society and education systems (Adams, 1982). Therefore, progress in women's issues and educational equity can be measured to some extent by the legislation passed by Congress.

The U.S. record in gender-equity legislation has been mixed, no doubt due in part to the fact that female representation in our legislative bodies has been among the lowest in the world (Ragab, 1992, 8). For instance, while the United States has been unable to pass a national equal rights amendment, and while abortion rights have been under sustained attack since the early 1980s, legislation banning gender discrimination in education and job hiring has seen some successes in important areas (Adelman, 1991).

What makes some legislation, or at least some portions of it, successful? What can legislation really do to help women? In this paper, we will use Title IX of the Education Amendments of 1972—the most extensive U.S. legislation addressing gender equity in education—as a case study to explore the education field and the impact of civil rights legislation dealing with gender. With the United States entering its third decade under this regulation, Title IX can provide a good study in what legislation can and cannot do to bring about social change. After discussing what Title IX is, its origins, and its context, we'll look at some successes and failures of Title IX, closing with some points to consider when legislating for equity.

Working toward Gender-Equitable Education

> No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any educational programs or activity receiving federal financial assistance.
>
> —From the preamble to Title IX of the Education Amendments of 1972

In June 1972, the U.S. Congress passed Title IX as part of the Education Amendments to the Civil Rights Act of 1964. This legislation was, and still is, the broadest U.S. legislation dealing with gender discrimination in education. It prohibits sex discrimination in educational institutions receiving federal financial assistance—in effect, most public and private schools, from preschool through graduate and professional schools.

Title IX specifically prohibits discrimination on the basis of sex in the educational areas of admissions, recruitment, educational programs and activities, course offerings and access, counseling, financial assistance, employment assistance, facilities and housing, health and insurance benefits and services, and athletics. Schools cannot have different rules, requirements, evaluations, and so on, for males and females. In other words, females and males must have equal opportunity and access to educational offerings and benefits. As Margaret Dunkle of the Equality Center says, "In practice, this means treating boys and girls the same when they have the same needs and treating them equally well when their needs are different" (Dunkle, 1989, 4).

The only instance in which educational institutions can treat females and males unequally is when conducting voluntary affirmative action. That is, schools can provide additional services to girls to help them overcome previous discrimination or limited participation.

Civil Rights Origins

Title IX of the Education Amendments of 1972 stands at one end of a progression of U.S. civil rights legislation, much of which was passed during the 1960s, a period often referred to as the civil rights era. Beginning in the 1950s with Supreme Court decision *Brown v. Board of Education*—which responded to a challenge from African American civil rights groups and outlawed the intentional racial segregation of schools—this era saw African American communities stepping up civil disobedience actions to protest racial discrimination and demand civil rights. African American civil rights organizations began to legally challenge discriminatory laws and practices. The civil rights movement had a major victory when, after much struggle, the U.S. Congress passed the Civil Rights Act of 1964. Title VII of the act prohibits discrimination "on the basis of race, color, religion, sex, or national origin in terms, conditions, or privileges of employment." Other important civil rights

legislation and laws were enacted during this decade, among which are the Equal Pay Act of 1963, which requires employers to give women and men equal pay when their jobs involve equal or "substantially" equal skill, effort, and responsibility; the 1965 Executive Order 11246, along with the 1967 Executive Order 11375, which together prohibit discrimination based on race, color, religion, national origin, or sex by employers doing business with the federal government; the Voting Rights Act of 1965, which outlaws the use of taxes and examinations as requirements for voter registration (such means were often used in the South to discourage or prevent African Americans from registering); and the Open Housing Act of 1968, which bans racial discrimination in most housing (Graham, 1990).

Most of this legislation dealt with employment, housing, and voting issues and focused mainly on prohibiting racial and ethnic discrimination. The word *sex* was included in several instances only because of last-minute additions, as in the case of the Civil Rights Act of 1964. For a number of reasons, in the early and mid-1960s there was not a strong women's movement organized to advocate for women's rights. As Joan Hoff-Wilson comments, "The Second Women's Movement [as opposed to the First Women's Movement of the late nineteenth and early twentieth centuries] cannot be credited with passage of either the 1963 Equal Pay Act or Title VII of the 1964 Civil Rights Act—it had not yet coalesced" (Hoff-Wilson, 1987, 13). While the Women's Bureau of the U.S. Department of Labor advocated for the Equal Pay Act, it saw this piece of legislation as continuing a tradition of protectionist legislation for working women based on their special roles as wives and mothers (Hoff-Wilson, 1987, 17). In fact, the Women's Bureau lobbied Congress against the addition of the word *sex* to Title VII language, fearing that its inclusion would endanger existing protective legislation (Graham, 1990, 207).

Title IX of the Education Amendments of 1972 built on portions of the 1964 Civil Rights Act. Title VI of the Civil Rights Act prohibits discrimination based on race, color, religion, or national origin in programs receiving federal financial assistance, but does not include discrimination based on gender. Title VII of the Civil Rights Act bars sex discrimination, among other types of discrimination, in employment. Title IX of the Education Amendments extended this employment protection to educational programs and activities.

Supporting Legislation

Title IX does not exist in isolation. Supporting and related legislation has played a large role in the effectiveness Title IX has had overall in education and in particular fields. This legislation includes the Women's Educational Equity Act (Public Law 93-380), Title IV of the Civil Rights Act, and the 1976 amendments to the Vocational Education Act of 1963.

While Title IX was designed to ban discrimination against women and girls in educational settings, the Women's Educational Equity Act (WEEA), passed two years later, was designed to take proactive steps toward making education more equitable for girls and women by providing incentives and guidance to schools and community groups. With the enactment of WEEA, the federal government offered both financial and technical support to local efforts to remove educational barriers for females. This act provided much-needed funding to educational institutions, organizations, and individuals working at all levels and in all areas of education—from early childhood to adult and from schools to community centers—to develop model educational programs, training, materials, and research to promote educational equity and transform educational systems.

In its early years, the grant program had the following priorities:

- Priority 1. **Title IX compliance** by educational institutions. . . .
- Priority 2. Educational equity for **racial and ethnic minority women and girls.** [Model programs] seek to remedy double discrimination, bias, and stereotyping.
- Priority 3. Educational equity for **disabled women and girls.** WEEA is the only federal program that addresses the special educational needs of this group.
- Priority 4. Influence on **leaders in educational policy and administration**. . . .
- Priority 5. **Elimination of persistent barriers** to educational equity for women. (Citizens Council on Women's Education, 1984, 24)

Besides funding grants, the WEEA Program established two support mechanisms: (1) the National Advisory Council on Women's Educational Programs and (2) the WEEA Publishing Center. The National Advisory Council was set up by Congress to advise the secretary of education about educational equity issues, make recommendations concerning the administration of the WEEA Program, and evaluate WEEA-funded projects. Early members of this council represented a range of experience, but all were of national stature and knowledgeable about education and equity issues. During the Reagan

administration, these individuals were replaced, for the most part, by women who shared the Reagan philosophy and who often had little or no background in educational equity work. In addition, the activities of the council were greatly curtailed (Citizens Council on Women's Education, 1984, 27–28). This council existed from 1975 through 1988, when it was disbanded as part of the Stafford-Hawkins Act. The council was dissolved by Congress because of increasing pressure from women's groups, who felt that the council as formed by Reagan was actually undercutting gender-equity initiatives.

The WEEA Publishing Center was established to support the work of WEEA-funded projects. The publishing center provides assistance to grantees in developing products and in publishing and disseminating those products. In this way, work is shared nationally, and internationally, and allows others to learn from and build on the efforts taking place in local schools and communities. The publishing center maintains a national network of organizations and individuals working in sex and race equity, and works to keep equity issues visible within education discussions, as well as to link individual projects with national educational equity work.

Another piece of legislation that forms part of the supporting structure for Title IX is Title IV of the Civil Rights Act. Title IV provides support to schools working to comply with the Civil Rights Act mandate for nondiscrimination based on race, national origin, and sex. Title IV provides funds for regional assistance centers (Desegregation Assistance Centers, or DACs) that furnish technical assistance and materials to schools wishing to provide more equitable education to students. It also gives grants to state education departments to do similar work.

Finally, the 1976 amendments to the Vocational Education Act of 1963 require states to act affirmatively to eliminate sex bias, stereotyping, and discrimination in vocational education. This legislation requires states to name state vocational education sex-equity coordinators. In many states, these sex-equity coordinators actively provide training and produce materials targeted toward making vocational education more equitable and less gender segregated.

The Role of States

Apart from the legislation discussed above, there is also state legislation that supports Title IX. As of 1988, 13 states had legislation similar to Title IX, and 19 others had legislation that dealt with at least some aspect of gender equity in education (Cheng, 1986).

There are several reasons a state would duplicate Title IX provisions. This duplication ensures state protection should federal legislation be weakened, and also gives the state a larger role in enforcement. For instance, when national abortion rights came under attack during the Reagan and Bush administrations, women's groups began organizing to push for state legislation protecting abortion rights. They did so because federal law guaranteeing most civil rights will, if lifted, leave these decisions to states. For instance, if *Roe v. Wade* is overturned by the U.S. Supreme Court, abortion will not automatically be illegal (except in states that have anti-choice legislation, currently overridden by *Roe*, on the books). The legality and restrictions on abortion will be left up to states to legislate.

In addition, some states have enacted laws that strengthen federal legislation. A few states have Title IX legislation that goes beyond the scope of the federal law. For example, in Massachusetts, schools are not allowed to use curricula that contain stereotypical images without appropriate activities, discussions, and supplementary materials to counteract the effects of the stereotypes. In addition, schools must give mandatory inservice training to school personnel and must show "active efforts" toward compliance with the letter and spirit of the law, neither of which is required by federal legislation.

In addition to actual legislation, states make a critical difference in the impact of federal legislation by their decisions on how to comply with the law. For example, though states must appoint a Title IX coordinator, there is wide variance among states on the effectiveness of this position. Whereas some states have appointed Title IX coordinators who work full-time on equity matters and have years of experience and training in educational equity issues, other states have simply added this responsibility onto an existing position, giving little attention to expertise or support for educational equity.

History of Court Decisions and Enforcement

While Title IX has been the law for 20 years, its impact has been both supported and thwarted by various federal-level efforts. The major responsibility for enforcing Title IX belongs to the Office for Civil Rights (OCR) within the U.S. Department of Education. Initially, the regulations were backed up by intensive monitoring by OCR. When regulations for Title IX were enacted in July 1975, all educational institutions receiving federal dollars were required, within one year, to conduct a self-evaluation to determine if they were in compliance with Title IX. They were then required to eliminate policies and practices that were discriminatory.

As with Title VI of the Civil Rights Act, Title IX carries with it legal sanctions for noncompliance. An important component of the OCR mandate was the possibility of revoking *all* federal funds from an institution should it be found to be out of compliance with Title IX. The government can delay awarding funds, revoke awards, or bar institutions from eligibility for future awards. Additionally, the U.S. Justice Department can bring suit on behalf of the U.S. Department of Education.

Individuals who believe an institution has discriminated against them can file a complaint with OCR, which then investigates the complaint and attempts to resolve the problem through informal mediations. If this fails, OCR can either hold formal hearings or refer the case to the U.S. Justice Department for court action. If the court finds discrimination to exist, the institution's federal funds can be terminated. Additionally, individuals have a private right to sue for discrimination. They can sue the schools directly, circumventing the federal procedures.

The penalties for discrimination are severe. But the regulations require that the government first attempt to resolve any discrimination problems through informal conciliation and persuasion. In the 20 years Title IX has been in force, no federal funds have ever been terminated on the grounds that a school has discriminated against its students on the basis of sex (Dunkle, 1989, 11).

With a shift in the political climate to a more conservative government, the broad coverage of Title IX—along with other civil rights legislation—was challenged by the U.S. Department of Justice and the enforcement of this legislation weakened within OCR (Cheng, 1986). With *Grove City College v. Bell*, the U.S. Supreme Court ruled that Title IX was program specific—only those

programs and activities receiving direct federal funds needed to comply. The Court ruled that federal funds must be traced directly to a discriminatory activity before Title IX could be enforced. This meant that elementary and secondary schools as well as colleges and vocational programs could practice sex discrimination in all their programs except those directly receiving federal support. A campus library built with federal funds would be prohibited from sex discrimination, while the same college could give financial aid only to males and still not be violating federal law (Sadker, Sadker & Long, 1989). *Grove City* jeopardized the effectiveness of both Title IX and the civil rights laws enacted in the 1960s."

Additionally, those categorical grant programs which support the implementation of Title IX—the WEEA Program and Title IV of the Civil Rights Act—faced drastic reductions, which weakened their ability to implement grass-roots programs. For instance, while in the early years of WEEA, funding for local initiatives peaked at $10,000,000, the 1992 federal budget had only a $500,000 allocation for WEEA, designated for publishing activities, with no funding for new field-based grants.

In 1988, Congress enacted the Civil Rights Restoration Act "to restore . . . broad, institution-wide application" of civil rights laws, including Title IX. This act was especially important, since it restored the perspective that all parts of a school system or college that receive federal education funds for any program must comply with the law.

The 1992 *Franklin v. Gwinnett County Public Schools et al.* Supreme Court ruling regarding the utility of Title IX as the basis for sexual harassment suits by students promises to further strengthen the impact of the legislation.* It is likely that, as a result of this ruling, schools will pay increasing attention to the equitable education of their female students. Prior to *Franklin v. Gwinnett*, Title IX was seen as applying only to institutional discrimination. With this ruling, the Supreme Court acknowledged that institutions could be held liable for individuals in those institutions who displayed discriminatory behavior toward females. In this particular case, a female student sued her school because it did not protect her from the sexual harassment of a teacher. In addition to ruling that institutions could be held responsible, the Court also ruled that plaintiffs

* Nancy Vargas of the National Women's Law Center and PEER (Project on Equal Educational Rights, part of the NOW Legal Defense and Education Fund) are both currently developing a full analysis of the recent *Franklin v. Gwinnett* court case, its implications, and its ramifications for gender-equity work.

could sue for monetary damages, an option not available prior to this decision. Lawyers are now much more likely to take on Title IX suits, and schools, encouraged by the possibility of being sued for monetary damages, are beginning to pay more attention to Title IX compliance.

Impact of Title IX

Title IX ushered in an era of education that would have significant and direct effects on one-half of the population of the United States—women and girls. With its mandate of nondiscrimination on the basis of sex, it opened the doors for important changes. As national legislation, Title IX reflected a growing sense that current education, as carrier of the macro culture, was perpetuating a system of inequity in which females were seen as inferior, and males, especially white males, were allocated roles of dominance and privilege. Title IX provided local educators and advocates with a mandate to change this situation on the state and local levels. Such efforts began to shift the sense of what it meant to be female or male and expanded options for both sexes in terms of both identity and access to opportunity.

A popular understanding of the impact of national legislation such as Title IX and the civil rights laws in the United States has been that females, Blacks, Latinos, Asians, and Native Americans now have access to the same schools and instruction as white, middle-class male students. Such an assumption focuses on access without looking at the quality of the content and processes of schooling itself. With this perception, some would use the existence of federal and state laws prohibiting discrimination based on race, creed, gender, or ethnicity to attribute educational disparities to personal and individual abilities (Gay, 1989, 167).

Equating sameness of opportunity and open access with educational equity, however, ignores fundamental issues of equality within the processes of schooling (Gay, 1989, 168). Sameness does not equal equity. We cannot simply say let's treat girls the same as boys or Black girls the same as white girls. We need to make the quality of provision and the substance of educational experiences available to all females and equitable across their differences of race, class, and ethnicity.

From this perspective, we can say that educational equity means not just the same opportunities and access; it also means that girls and boys are equally prepared to make good choices and to take advantage of available opportunities. It means that all girls and boys receive equal encouragement and attention in exploring their opportunities and making decisions. Rather than focusing on ensuring that an individual girl has the same opportunity as an individual boy, we can look more closely at how stereotyping, socialization, and other systemic factors deny an even start to many girls. Obviously, the existence of legislation does not in itself lead to social transformation. Legal mandates guaranteeing access do not ensure equal quality (Astin, 1985).

In spite of its limitations, however, Title IX has provided the impetus for significant change within U.S. education and within the larger society. One important success has been that Title IX has opened doors that were previously closed. Many of the formal, systemic barriers to equal education for females in the United States were removed. Females who attended schools prior to 1972 experienced sex-segregated classes, denial of admissions to vocational education classes, and lack of access to advanced mathematics and science courses, as well as overt discrimination in medical schools and other predominantly male institutions.

With the passage of Title IX, schools can no longer force pregnant young women to drop out. They can no longer restrict females' entrance into nontraditional classes, or have different course requirements for girls and boys. The number of women who earn degrees in business, engineering, and medicine is increasing each year. Specifically, there were over 100,000 female doctors in 1988, more than double the number in 1975, due in large part to Title IX's provision forbidding sex discrimination in admission to professional schools (Dunkle, 1989, 3). And the number of women scientists and engineers more than tripled in the years between 1976 and 1986 (Bickel, 1990, 212; Rix, 1990, 358).

A second success has been more nearly equal budgets and resources for women's and girls' programs and activities. For instance, in sports, Title IX forced many colleges and universities to completely restructure their approach to women's athletics by requiring that women receive scholarships, teams, coaches, and facilities equal to those of male athletes. The number of women in college athletics increased from 16,000 in 1972 to 150,000 in 1985 (Hanson & Flansburg, 1990, 13). And Title IX has meant that girls at the middle school and high school levels have a much greater choice in individual and team sports than previously,

and that athletics for girls is more visible within schools at the local and state levels.

A third success has been in strengthening a national infrastructure dedicated to equity in education. Title IX and supporting legislation have helped to create a federally maintained network of organizations and individuals firmly committed to equity efforts and working in various locales. The Desegregation Assistance Centers (DACs) have played a vital role in reaching and working with local schools. DACs work regionally to consult with K–12 schools and provide training and materials to promote equitable educational opportunities. The WEEA Publishing Center also maintains a network of school- and community-based individuals, advocates, policymakers, and researchers interested in educational equity work, helping to link local projects with others doing similar work, and linking field-based programs to policy discussions and research endeavors. And gender-equity and education organizations have been active both in shaping the vision and in ensuring that policy and goals get translated into state and local action.

Finally, in the last two decades much progress has been made toward a more sophisticated understanding of what gender discrimination constitutes and the effects it has not only on individuals but on U.S. society. Models for restructuring schools and training educators and administrators in gender-fair education have been developed and tested. We understand more about what gender equity in education looks like and have more resources to help us move toward that goal.

But identifying progress also spotlights some of our failures. First, though gains have been made in making educational systems more equitable for girls and women, most of the benefits have been felt by white, middle- and upper-class females. Poverty and racism within educational systems, as in our larger society, create additional burdens for low-income females and girls and women of color, and, for the most part, deny them much of the access and opportunities that middle- and upper-class white women have. Females of color still experience overt and covert racism in schools, from both teachers and peers. They are also more often tracked into lower-level classes, in effect closing doors for them and routing them to overworked or less skilled teachers.

Girls from poor families, who more often come to school with health problems and less preparation, must attend schools with often inadequate facilities, fewer resources, and larger classes. In addition, with pressing

economic demands on them, low-income women often do not have a "real" choice to complete high school or continue education, or to pursue individual fulfillment through education as their higher-income sisters do. As Deborah Rhode, director of the Institute for Research on Women and Gender at Stanford, points out, for the most part legislation has not addressed the systemic causes for inequitable educational experiences: "Statutes have been enacted to secure similar treatment for persons similarly situated; less effort has been centered on remedying the structural factors that contribute to women's dissimilar and disadvantaged status" (Rhode, 1990, 174).

Second, Title IX has not changed basic institutional structures. Most educational institutions are still very much administered and structured on a white, male model that relies strongly on hierarchy and decisions from above, in part because school administration remains a male-dominated profession. In overall numbers, women have made no progress toward expanding their representation in administration. While women make up over two-thirds of all teachers, they compose only about one-fifth of school principals. In fact, the percentage of principals who are women has continually declined since 1928. Statistics from a U.S. Department of Education survey released in 1988 show that superintendents are 96 percent male and 97 percent white, and principals are 76 percent male and 90 percent white (Feldman, Jorgensen & Poling, 1988, 335–36; Stone, 1990, 33).

Third, the way that the enforcement of Title IX was set up has proved to make it vulnerable to changing politics. Under the Bush and Reagan administrations, enforcement and dissemination of information about this legislation—and other civil rights legislation—were put as one of the lowest priorities of the OCR.

Finally, as previously mentioned, equal access and opportunity do not make equal education. Title IX has been less successful in addressing many of the attitudinal, or "process," issues in education. Although outstanding teacher/administrator training programs have been developed and implemented in a number of areas, most educators are still not aware of internalized sexism, racism, and other prejudices that affect their teaching. In addition, much of the socialization of females—and of the educators, parents, and peers who influence their decisions—still discourages females from knowing about or exploring all of their opportunities. As one state administrator has said, "Title IX legislation has provided access to more programs for females and supports the philosophy that

females now have unlimited opportunities to achieve excellence in school. Unfortunately, because of gender-role socialization, females are not often exercising these options. Title IX has encouraged the system to be fair and open; the system, for the most part, has become more open and accessible. Yet little/nothing has changed" (Hanson, 1992). Perceptions and awareness of how gender socialization affects schooling—and how schooling supports gender socialization—have not become part of the mainstream educational discourse.

The twentieth anniversary of Title IX coincided with a series of reports by the American Association of University Women that brought together research findings on the status of equitable education for females. The final report, *Shortchanging Girls, Shortchanging America*, again highlighted the fact that although federal legislation prohibiting discrimination against women and girls in education exists, females remain at the margin of academic achievement. Despite this overwhelming evidence, however, most schools continue to believe that they are, in fact, educating all students equitably. Many believe that "since we've been in compliance with Title IX, it seems that gender does not play a role in the operation of our school system." Others feel that once addressed, the issue of gender equity is over and done with. As one Title IX coordinator reported, "We attended a weekend workshop in the early 1970s and . . . I relayed the information from the workshop to our school personnel" (Hanson, 1992).

A survey of Title IX state-level coordinators found widely divergent perceptions of what compliance with Title IX is and how well institutions are succeeding in compliance. As one state administrator said, "Educators take one of two positions in response to gender-equity issues. Either they believe they already dealt with these issues way back in the 1970s after the regulations were first promulgated, or they believe that of all the current and emerging issues facing educators—particularly issues of school reform, restructuring, and improvement—equity is simply not as important." She continued by outlining what she feels Title IX has been able to do and what it has not done:

> Until schools understand the process of gender-role socialization—how dysfunctional it is and how schools contribute to gender-role socialization—they will be unable to link the school experience with ultimate student outcomes. Compliance assures access in the school system but gender-role socialization trains students to make traditional choices. As a result, being "fair" has produced few changes in student outcomes. Change will ultimately occur when systems are affirmative and challenge gender-role socialization—which is not covered under Title IX. [Schools must challenge] the sex biases and sex-based expectations of [their] students, staff, parents, and community. Schools need to examine how their policies, practices, and

the school climate are supporting two sets of expectations for students based on sex. (Hanson, 1992)

Emerging Issues in Title IX Interpretation

As highlighted by the Supreme Court ruling *Franklin v. Gwinnett County Public Schools et al.*, the meaning and implications of Title IX are continually revisited in relation to emerging social and educational issues involving sex discrimination. Following are some examples of new areas of gender-equity focuses in education.

Sexual Harassment

Franklin v. Gwinnett County Public Schools et al., following on the heels of the notorious case of Justice Clarence Thomas, a judge whose nomination to the U.S. Supreme Court was confirmed amid charges of sexual harassment, gives power to a growing national movement among women and their male allies to confront the destructive effects of sexual harassment. Already, school systems concerned with the possibility of having to pay monetary damages are both increasing their education around sexual harassment and drafting clear criteria for behavior on the part of educators.

While these steps may have a significant impact on behaviors, the issue of proving sexual harassment remains difficult. For instance, in one recent incident a school principal who admitted to sexually touching one of his former middle school students when she was 14 was allowed to remain in his new school and was, in fact, lauded as an outstanding principal by many adults in that community. Interestingly, sexual harassment was not seen as counter to his role as a trusted educational leader. Researchers, including Nan Stein and others at the Wellesley College Center for Research on Women, have begun to explore what constitutes sexual harassment in schools and among student peers and what the rate of incidence is. Similarly, activists are just beginning to look at sexual harassment within schools as a Title IX violation. As discussion continues on this issue, Title IX will continue to play a significant role as educators attempt to change both behaviors and attitudes concerning sexual boundaries and sex roles.

Single-Sex Schools

Since the implementation of Title IX, there has been an enormous decline in the number of single-sex secondary and postsecondary schools. With the passage of Title IX, public schools were no longer allowed to segregate males from females. Similarly, public postsecondary schools can no longer exclude either males or females. Because of this ruling, and perhaps with the assumption that females now had more options within coeducation than previously, more and more women entered coed postsecondary education. Over the last decades, the number of women's colleges dwindled from almost 300 to less than 100 (Sadker, Sadker & Long, 1989, 119).

Inadvertently, then, Title IX may have helped the demise of single-sex schools for females. This may have long-range implications, considering research that shows girls in single-sex secondary schools in the United States express greater interest in mathematics and English, take more mathematics courses, do more homework, and have more positive attitudes toward academic achievement (Lee & Bryk, 1986). Ironically, while girls seem to do better in single-sex settings, boys do equally well in single-sex and coeducational settings. In this instance, Title IX could be seen as counter to academic achievement for females. Looking at the issue from another perspective, however, Title IX could instead be used as the basis for moving our current educational pedagogy toward coed education that truly meets the needs of all students, rather than only those of a small segment of the student population—white, middle-class males.

A recent development within education has sex-equity advocates again exploring the issue of single-sex schools. In efforts to reduce what is being viewed as the destruction of African American young men through homicide and gang warfare, many African American educators and their allies have begun to develop public single-sex schools for African American males. These schools are designed with an Afro-centric focus and provide African American males with role models and mentors among teachers and administrators. Such schools were recently opened in such major U.S. cities as Milwaukee, Wisconsin, and Detroit, Michigan. Although the critical importance of saving these young men was not disputed, gender-equity advocates and Title IX lawyers challenged such institutions as discriminating against girls. The court challenges following the proposal of such schools in Detroit, for instance, placed many gender-equity specialists, themselves African American mothers of male children, in the

position of having to oppose these schools. Although in the Detroit case the courts sided with the sex-equity advocates, discussion must continue around the complex issues of race and gender discrimination as well as the important role of both multicultural education and Afro-centric education.* One important Title IX contribution to this discussion can certainly be the highlighting of the needs of African American females within education, as well as the destructive effects of sexism on both men and women.

Gay and Lesbian Students

For a number of years, widespread homophobia in the United States has prevented any open discussion of the needs of lesbian and gay students within education. Attacks on gays and lesbians were often overlooked, and many homosexual students either dropped out of school or engaged in self-destructive behavior. Recent research has begun to explore the link between sexual identity and suicide.

More recently, however, Title IX advocates have begun to use the legislation to protect gay and lesbian students and to push for efforts to meet their educational needs. Defining the refusal to provide services and support for gay and lesbian students as discrimination based on sexual identity, and therefore covered by Title IX, these advocates have been able to launch such projects as the highly acclaimed Project 10 in Los Angeles, which provides counseling and support services to homosexual and bisexual students. In addition, other states have instituted significant legislation and projects within their departments of education that specifically address the educational needs of gay, lesbian, and bisexual students. For example, Wisconsin's state Title IX legislation now includes specific language to cover the educational rights of homosexual and bisexual students.

Educational Equity Legislation and the Future

In reviewing the impact of Title IX legislation, one concludes that this legislation has been an important beginning and has provided a valuable

* PEER took the lead in the Detroit court case in opposition to single-sex schools for African American males.

foundation in working to make educational systems more equitable. As a group of educational researchers concluded, "Strong sex-equity laws and/or policies can be considered a first step in achieving sex equity" (Schmuck et al., 1985). Because of the massive systemic inequities in educational systems prior to this legislation, federal law dealing with discrimination and segregation has had a significant impact. And when systems haven't changed, students, educators, and others have had recourse for dealing with inequities.

In some areas, such as athletic facilities and resources, legislation has been enough to encourage great change on the part of systems. This change can often be linked to the work of advocates who were already organized and ready to respond when Title IX became law. For instance, the National Association for Girls and Women in Sports was active early during the time when the Department of Health, Education, and Welfare was determining the rules and regulations for interpreting and enforcing Title IX. This organization continues to work to inform women athletes about Title IX and to advocate for equity within the realm of athletics.

Thus, Title IX has been able to influence systems and affect behaviors somewhat. The question of changing people's attitudes and of meeting the spirit of the law has been a more difficult issue. This was especially evident during the second decade of the legislation, when there was little federal support or leadership from which states and schools could benefit. Many equity advocates feel that as a result of mixed messages coming from Congress and the courts during the 1980s, and lack of enforcement and increased challenges from the administration during this period, the United States actually lost ground in moving toward equitable education.

As the United States enters its third decade under Title IX, it is clear that after two decades there is still much work to do in encouraging and helping educational institutions to eliminate discriminatory practices and policies. Title IX will continue to provide strong support for these efforts, especially given the courts' most recent interpretations of this legislation. In addition, we must continue to address the issues of attitudinal change. Such work is obviously neither easy nor short-term, and clearly entails much more than legislation.

Recommendations

The following recommendations, for those considering legislative efforts to work on equity issues, are drawn from research and practice.

1. **Legislation needs firm governmental leadership and a commitment to monitoring compliance.** Awareness of and compliance with legislation are often contingent on the federal government's efforts in these areas. Title IX's relatively slight impact in the United States during the 1980s is a good example of how lack of federal support can hinder efforts, for during that decade, neither sufficient staffing for monitoring nor commitment to the goal of gender-equitable education was provided by the federal government.
2. **To be effective, legislation needs grass-roots support and action.** Social change cannot just be dictated from above. In the case of Title IX, support and action from community groups and organizations, local schools, and so on, are vital for effectively translating goals and vision into concrete results.
3. **Strong links between grass-roots action, policymakers, and monitoring institutions are vital.** In order to maintain legislation that is addressing real needs, policymakers and administrators must be connected to people who are working in the field and can share current issues and concerns from the local level. Women's organizations and educational organizations have played a large role in working to keep this exchange going in the United States. The WEEA Publishing Center has worked over the years to maintain communication between grass-roots projects and federal and state education departments, as well as education administrators. The National Coalition for Sex Equity in Education also has a broad-ranging membership—state-level gender-equity specialists, DACs, advocates, teachers, school administrators, and grass-roots projects—that communicates through a newsletter and annual conference regarding current educational issues and manners of collaboration.
4. **Legislation should be sufficiently broad to deal with new issues arising in equity.** Title IX has proved to be "living" legislation through evolving interpretations. Through court challenges and decisions, Title IX is now seen to apply to the sexual harassment of students and the rights of lesbian and gay students, areas that were not originally seen as falling under the domain of Title IX.

5. **A requirement for early evaluation and plans for compliance is important.** This action is essential for prodding educational institutions to consider the implications of gender-equity legislation early on. It also forces them to create short- and long-term plans for remedying inequities. Moreover, such information provides important data for analyzing the effectiveness of legislation.
6. **There must be specific and strong consequences for noncompliance.** Equity advocates forecast that recent court decisions on Title IX that allow monetary damages will have a significant impact on compliance within the United States. When institutions see strong consequences for noncompliance, they are more likely to place compliance as a priority.
7. **Legislation needs supporting efforts that provide incentives and assistance to institutions and systems.** A key element in the success of Title IX legislation has been the assistance provided to institutions to identify issues and evaluate compliance, as well as to furnish training and materials to assist institutions to make changes. The formation of DACs and the state and local efforts funded through the WEEA Program have been essential in helping schools and other educational facilities meet requirements and become educated about equity concerns.

   For instance, in 1978 the WEEA Program contracted with the Council of Chief State School Officers to provide assistance to state education departments and local education institutions on Title IX implementation. This assistance was the first time that most administrators became aware of gender-equity implications in education and received training in approaches to equitable education. In addition, this intensive work helped to coalesce a group of committed educational equity specialists who have continued to collaborate.
8. **There must be documentation and dissemination of model programs, training, and materials.** Critical to the impact of Title IX has been the work of the WEEA Publishing Center, supported by the DACs. In the early years of the WEEA Program, all funded projects were required to produce a final product—something that documented the work they had done and that others could use to replicate or build on that work. Though product development is not now a requirement of WEEA projects, the WEEA Publishing Center continues to assist projects in identifying ways to communicate their learning, and to publish peer-reviewed products. WEEA

products are marketed nationally and sold at cost. With this mechanism in place, thousands of sites around the country have been able to take advantage of work done in one locality.

9. **Legislation should address the need for assistance to institutionalize exemplary programs.** Funding and assistance to arrange for the peer reviewing and field-testing of promising programs, followed by assistance in adapting those programs to different locations, form the first step toward widespread institutionalization of equitable education models.* This would go beyond the peer review of products that currently takes place within the WEEA Program, and would provide stronger evaluation and opportunities to revise and perfect exemplary products. It would also help other sites implement programs by providing training and staff to consult on implementation.
10. **A strong national infrastructure dedicated to equity work can provide support and information.** In the United States, Title IX and the passage of WEEA and Title IV of the Civil Rights Act established federally administered organizations and systems for assisting states and schools in moving toward educational equity. The DACs, the WEEA Publishing Center, and the former National Advisory Council on Women's Educational Programs have all played important roles in raising awareness of equity issues and maintaining visibility for efforts. In addition, there are a number of national organizations—such as the National Coalition for Sex Equity in Education, the Center for Women's Policy Studies, NOW's PEER, the Vocational Educational Equity Council of the American Vocational Association, and the National Coalition of Women and Girls in Education—that work on many aspects of educational equity and work together with others in the field. These groups also play an important role outside the federal apparatus by advocating and monitoring governmental actions.

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* Susan Klein of the U.S. Department of Education has as a private citizen made numerous suggestions on strategies for improving the effectiveness of the WEEA Program. This suggestion is from her recommendations.

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